

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

APPLE INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
MASIMO CORPORATION and SOUND)	
UNITED, LLC,)	
)	
Defendants.)	
		C.A. No. 22-1377 (MN) (JLH)
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MASIMO CORPORATION,)	
)	
Counter-Claimant,)	
)	
v.)	
)	
APPLE INC.,)	
)	
Counter-Defendant.)	
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APPLE, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
MASIMO CORPORATION and SOUND)	
UNITED, LLC,)	
)	
Defendants.)	
		C.A. No. 22-1378 (MN) (JLH)
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MASIMO CORPORATION and)	
CERCACOR LABORATORIES, INC.,)	
)	
Counter-Claimants,)	
)	
v.)	
)	
APPLE INC.,)	
)	
Counter-Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

At Wilmington, this 10th day of July 2023;

WHEREAS, on June 15, 2023, Magistrate Judge Hall held a motion hearing on the parties' pending motions¹ (6/15/2023 minute entry) and on June 20, 2023 held a teleconference with the parties where she announced her Report and Recommendation from the bench ("the Report") and also docketed an Oral Report and Recommendation (C.A. No. 22-1377, D.I. 131; C.A. No. 22-1378, D.I. 124);

WHEREAS, Judge Hall recommended that (1) Sound United, LLC's Motions to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (C.A. No. 22-1377, D.I. 29; C.A. No. 22-1378, D.I. 13) be DENIED (collectively, "the Sound United Motions"); (2) Apple Inc.'s Motion to Dismiss Masimo Corporation's Inequitable Conduct Counterclaim and Strike its Affirmative Defense (C.A. No. 22-1377, D.I. 54) be DENIED; and (3) Apple Inc.'s Motion to Dismiss Masimo Corporation's Counterclaims and Strike its Inequitable Conduct Affirmative Defense (C.A. No. 22-1378, D.I. 39) be DENIED (C.A. No. 22-1377, D.I. 131; C.A. No. 22-1378, D.I. 124);

WHEREAS, on June 23, 2023, Judge Hall issued an Oral Order granting Masimo's Motions for Leave to Amend (C.A. No. 22-1377, D.I. 117; C.A. No. 22-1378, D.I. 109);

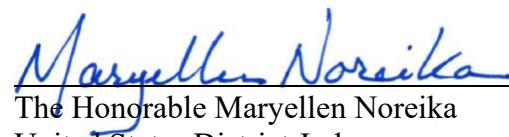
WHEREAS, on June 23, 2023, after Masimo docketed its amended counterclaims, this Court entered an Oral Order denying as moot Apple's Motions (C.A. No. 22-1377, D.I. 136; C.A. No. 22-1378, D.I. 133);

¹ The pending motions are: (1) Sound United, LLC's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (No. 22-1377, D.I. 29); (2) Sound United, LLC's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (No. 22-1378, D.I. 13); (3) Apple Inc.'s Motion to Dismiss Masimo Corporation's Inequitable Conduct Counterclaim and Strike its Affirmative Defense (No. 22-1377, D.I. 54); and (4) Apple Inc.'s Motion to Dismiss Masimo Corporation's Counterclaims and Strike its Inequitable Conduct Affirmative Defense (No. 22-1378, D.I. 39).

WHEREAS, in light of Masimo's amended counterclaims (C.A. No. 22-1377, D.I. 138; C.A. No. 22-1378, D.I. 132), Apple filed an Unopposed Motion to Reissue the Report and Recommendation (C.A. No. 22-1377, D.I. 145; C.A. No. 22-1378, D.I. 140);² and

WHEREAS, no party filed objections to the portions of the Report addressing the Sound United Motions pursuant to 72(b)(2) of the Federal Rules of Civil Procedure in the prescribed period, and the Court finding no clear error on the face of the record.

THEREFORE, IT IS HEREBY ORDERED that the Report and Recommendation (C.A. No. 22-1377, D.I. 131; C.A. No. 22-1378, D.I. 124) is ADOPTED as to the Sound United Motions. Sound United, LLC's Motions to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (C.A. No. 22-1377, D.I. 29; C.A. No. 22-1378, D.I. 13) are DENIED.



The Honorable Maryellen Noreika
United States District Judge

² On July 7, 2023, Judge Hall denied the unopposed motion from the bench and also issued a corresponding Oral Order. (C.A. No. 22-1377, D.I. 160; C.A. No. 22-1378, D.I. 156).